

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1169

Introduced by Assembly Member Bermudez

February 21, 2003

An act ~~relating to energy resources~~ to amend Section 366.1 of the Public Utilities Code, relating to electric power.

LEGISLATIVE COUNSEL'S DIGEST

AB 1169, as amended, Bermudez. ~~Energy~~ Aggregation: Magnolia Power Project.

Under existing law, a city with rights and obligations to the Magnolia Power Project, as defined, may serve as a community aggregator on behalf of all retail end-use customers within its jurisdiction, if the project has been constructed and is otherwise capable of beginning deliveries of electricity to the existing project participants.

This bill would make changes to reflect that the project is being constructed, and would define the term “retail end-use customers within its jurisdiction” to include any electric service account of any local public agency that has its principal place of business either within, or immediately contiguous to, the existing project participant’s jurisdiction.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities and certain duties regarding other entities that produce energy.~~

~~This bill would state the intent of the Legislature in subsequent amendments to develop legislation relating to energy produced in this state.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1.—It is the intent of the Legislature in subsequent amendments to develop legislation relating to energy produced in this state.~~

SECTION 1. Section 366.1 of the Public Utilities Code is amended to read:

366.1. (a) As used in this section, the following terms have the following meanings:

(1) “Department” means the Department of Water Resources with respect to its power program described in Chapter 2 (commencing with Section 80100) of Division 27 of the Water Code.

(2) “Existing project participant” means a city with rights and obligations to the Magnolia Power Project under the Magnolia Power Project Planning Agreement, dated May 1, 2001.

(3) “Magnolia Power Project” means a ~~proposed~~ natural gas-fired electric generating facility ~~to be located~~ *being constructed* at an existing site in Burbank and for which an application for certification has been ~~filed with~~ *approved by* the State Energy Resources Conservation and Development Act ~~(Docket No. 00-SIT-1) and deemed data adequate pursuant to the expedited six-month licensing process established under Section 25550 of the Public Resources Code~~ *Commission and for which a certificate to construct and operate has been granted.*

(b) Notwithstanding Section 80110 of the Water Code or ~~Commission Decision 01-09-060, if the Magnolia Power Project has been constructed and is otherwise capable of beginning deliveries of electricity to the existing project participants, any commission decision ordering the suspension of direct access,~~ an existing project participant may serve as a community aggregator on behalf of all retail end-use customers within its jurisdiction. *For the purpose of this subdivision, the term “retail end-use customers within its jurisdiction” includes any electric service account of any local public agency that has its principal place of business either within, or immediately contiguous to, the existing project participant’s jurisdiction.*

(c) Subdivision (b) ~~shall~~ *may* not become operative until both of the following occur:

(1) The commission implements a cost-recovery mechanism, consistent with subdivision (d), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and ~~the effective date of the act adding this section~~ *January 1, 2003*.

(2) The commission submits a report certifying its satisfaction of paragraph (1) to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

(d) (1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the department's power purchase costs, as well as power purchase contract obligations incurred as of January 1, 2003, that are recoverable from electrical corporation customers in commission-approved rates. It is the further intent of the Legislature to prevent any shifting of recoverable costs between customers.

(2) The Legislature finds and declares that ~~the provisions in this subdivision are~~ *is* consistent with the requirements of Section 360.5 and Division 27 (commencing with Section 80000) of the Water Code, and ~~are~~ *is* therefore declaratory of existing law.

(e) A retail end-use customer purchasing power from a community aggregator pursuant to subdivision (b) shall reimburse the department for all of the following:

(1) A charge equivalent to the charge ~~which~~ *that* would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to an agreement between the commission and the ~~Department of Water Resources~~ *department* pursuant to Section 80110 of the Water Code, ~~that~~ *That* charge shall be payable until all obligations of the ~~Department of Water Resources~~ *department* pursuant to Division 27 (*commencing with Section 80000*) of the Water Code are fully paid or otherwise discharged.

(2) The costs of the department, equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's

1 purchases of electricity from a community aggregator, through the
2 expiration of all then existing power purchase contracts entered
3 into by the department.

4 (f) A retail end-use customer purchasing power from a
5 community aggregator pursuant to subdivision (b) shall reimburse
6 the electrical corporation that previously served the customer for
7 all of the following:

8 (1) The electrical corporation's unrecovered past
9 undercollections, including all financing costs attributable to that
10 customer, that the commission lawfully determines may be
11 recovered in rates.

12 (2) The costs of the electrical corporation recoverable in
13 commission-approved rates, equal to the share of the electrical
14 corporation's estimated net unavoidable power purchase contract
15 costs attributable to the customer, as determined by the
16 commission, for the period commencing with the customer's
17 purchases of electricity from the community aggregator, through
18 the expiration of all then existing power purchase contracts entered
19 into by the electrical corporation.

20 (g) (1) A charge or cost imposed pursuant to subdivision (e),
21 and all revenues received to pay the charge or cost, shall be the
22 property of the ~~Department of Water Resources~~ department. A
23 charge or cost imposed pursuant to subdivision (f), and all
24 revenues received to pay the charge or cost, shall be the property
25 of the particular electrical corporation. The commission shall
26 establish mechanisms, including agreements with, or orders with
27 respect to, electrical corporations necessary to ~~assure~~ ensure that
28 the revenues received to pay a charge or cost payable pursuant to
29 this section are promptly remitted to the party entitled to those
30 revenues.

31 (2) A charge or cost imposed pursuant to this section shall be
32 nonbypassable.